

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20005

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
Telecommunications Services)
Inside Wiring)
Customer Premises Equipment)

CS Docket No. 95-184

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NYNEX COMMENTS

NYNEX Telephone Companies

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SUMMARY

In these Comments, NYNEX recommends that the Commission's demarcation point rules for inside wire should be established on the basis of the service provided. Thus, the Commission's inside wire rules for telephone service should be the same for all providers of telephone service, and the Commission's inside wire rules for video services should be the same for all providers of video services, regardless of the facility used to provide the service. However, wherever practicable, the demarcation points for both services should be the same. This will not only simplify existing rules, it will also facilitate installation and maintenance by a provider of both types of services. Thus, for example, NYNEX recommends that for new single family homes, the demarcation point for both cable and telephone service should be about 12 inches outside the premises.

When technology evolves to the point that both video and telephone services can be provided over the same facility, then NYNEX recommends that the demarcation point be the same for both services provided over that facility. Because the technology that will be used to provide video and telephone service over a single facility is still evolving, the exact location of that demarcation point cannot be determined at this time. However, in general, the demarcation point in MDUs should be the last cross-connection or access point at which the integrated video/telephone line becomes dedicated to an individual subscriber's use.

So long as telephone and video services are provided over separate facilities, there is no need to change the existing rules regarding simple and complex telephone wire, or residential and non-residential cable wire. Nor is there a need to change the existing regulatory scheme under which telephony is subject to regulation by the Commission and

(ii)

state regulatory agencies while cable services are subject to regulation by the Commission and local franchising authorities.

The Commission should also ensure that customers have control of all inside wiring regardless of what services are being provided and who is providing them. Customer control of cable inside wiring should begin upon installation, similar to the rules that currently apply to telephone inside wiring.

In these Comments, NYNEX will also show that the rights of telephone companies and video providers to obtain access to private property are somewhat circumscribed, especially in the area of access to multiple dwelling unit (MDU) buildings. In the absence of legislation granting such access, alternative telephone and video service providers may encounter obstacles in their attempts to provide competing services in MDU buildings. However, the Commission's rules should, to the extent possible, promote open access for alternative service providers on a going forward basis.

Finally, NYNEX recommends that the Commission should deregulate the provision of cable CPE as it has done in the area of telephone CPE. This should lower cable CPE charges for consumers. The Commission should not prescribe technical standards for broadband services or cable CPE. Such standards should be developed by industry forums and standard setting bodies. Nor should the Commission establish signal quality standards for broadband services. Signal quality should be one of the factors broadband providers use in competing for business in the marketplace.

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NYNEX COMMENTS

The NYNEX Telephone Companies ("NYNEX")¹ hereby comment on the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-captioned matter.

I. INTRODUCTION

The Commission seeks comment on whether its telephone and cable inside wire rules should be revised, harmonized or otherwise changed in light of the rapidly evolving and converging telecommunications marketplace.

With the passage of the Telecommunications Act of 1996, the boundaries separating the local exchange carrier industry from the cable TV industry will soon disappear. The legislation allows cable TV companies into local exchange service markets while permitting telephone companies to provide video programming directly to customers in their service areas. With the development of fiber optics and other innovative

¹ The NYNEX Telephone Companies are New York Telephone Company and New England Telephone and Telegraph Company.

technologies, it will soon be possible to transmit voice, video and data signals over the same facilities.

The changes in regulation and technology will increasingly lead to head-to-head competition between the cable and telephone industries. However, the two industries are currently subject to different rules regarding inside wire. The NPRM provides the Commission the opportunity to bring its inside wire rules closer together to help achieve competitive equity.

In these Comments, NYNEX recommends that the Commission's demarcation point rules for inside wire should be established on the basis of the service provided. Thus, the Commission's inside wire rules for telephone service should be the same for all providers of telephone service, and the Commission's inside wire rules for video services should be the same for all providers of video services, regardless of the facility used to provide the service. However, wherever practicable, the demarcation points for both services should be the same. This will not only simplify existing rules, it will also facilitate installation and maintenance by a provider of both types of services. Thus, for example, NYNEX recommends that for new single family homes, the demarcation point for both cable and telephone service should be about 12 inches outside the premises.

When technology evolves to the point that both video and telephone services can be provided over the same facility, then NYNEX recommends that the demarcation point be the same for both services provided over that facility. Because the technology that will be used to provide video and telephone service over a single facility is still evolving, the exact location of that demarcation point cannot be determined at this time. However, in general,

the demarcation point in MDUs should be the last cross-connection or access point at which the integrated video/telephone line becomes dedicated to an individual subscriber's use prior to entering the subscriber's premises.

So long as telephone and video services are provided over separate facilities, there is no need to change the existing rules regarding simple and complex telephone wire, or residential and non-residential cable wire. Nor is there a need to change the existing regulatory scheme under which telephony is subject to regulation by the Commission and state regulatory agencies while cable services are subject to regulation by the Commission and local franchising authorities.

The Commission should also ensure that customers have control of all inside wiring regardless of what services are being provided and who is providing them. Customer control of cable inside wiring should begin upon installation, similar to the rules that currently apply to telephone inside wiring.

In these Comments, NYNEX will also show that the rights of telephone companies and video providers to obtain access to private property are somewhat circumscribed, especially in the area of access to multiple dwelling unit (MDU) buildings. In the absence of legislation granting such access, alternative telephone and video service providers may encounter obstacles in their attempts to provide competing services in MDU buildings. However, the Commission's rules should, to the extent possible, promote open access for alternative service providers on a going forward basis.

Finally, NYNEX recommends that the Commission should deregulate the provision of cable CPE as it has done in the area of telephone CPE. This should lower cable CPE

charges for consumers. The Commission should not prescribe technical standards for broadband services or cable CPE. Such standards should be developed by industry forums and standard setting bodies. Nor should the Commission establish signal quality standards for broadband services. Signal quality should be one of the factors broadband providers use in competing for business in the marketplace.

II. THE COMMISSION'S DEMARCATION POINT RULES SHOULD BE ESTABLISHED ON THE BASIS OF THE SERVICE PROVIDED AND HARMONIZED WHEREVER PRACTICABLE

In establishing demarcation points, the Commission should, wherever possible, seek parity between different providers of like services, regardless of the medium used. In other words, the service being provided should determine the set of rules used for inside wiring, not the facilities used to provide the service or the identity of the provider. Thus, the Commission's inside wire rules for telephone service should be the same for all providers of telephone service, and the Commission's inside wire rules should be the same for all providers of video services, including video services provided through MMDS, Open Video Systems or SMATV.

In situations where there are two or more separate facilities providing video and voice services (e.g., a telephone company providing voice service and a cable operator providing video service), there is no need for the demarcation points to necessarily be at the same location. In addition, as noted by the Commission in the NPRM, there are practical constraints on setting a common demarcation point. For example, altering the telephone demarcation point in MDU buildings could have a substantial effect on the markets for the installation and maintenance of inside wiring that have developed under the

existing rules, as well as raise cost recovery and accounting issues for wiring that under the current rules is unregulated but could become regulated if the demarcation point were moved.

Different demarcation points for telephony and cable may be appropriate so long as companies are offering only telephone or only cable service. However, once companies begin to offer both type of service, even if over separate facilities, it may be in the public interest to avoid needless confusion and expense for consumers, property owners and service providers by bringing the demarcation points closer together. This will promote competitive equity and will facilitate installation and maintenance by a provider of both type of services.

A. Telephone Inside Wire Rules

Under the Commission's current rules, the demarcation point for single family dwellings is at a point within 12 inches of the protector² or, where there is no protector, within 12 inches of where the telephone wire enters the customer's premises. NYNEX recommends that this rule be retained for existing dwellings.³ However, for new single family dwellings, NYNEX recommends that the demarcation point be located about 12 inches outside the premises, the same demarcation point that currently exists for cable inside wire. NYNEX believes that local exchange carriers (LECs) would prefer to locate

² 47 CFR § 68.3. A protector is a small box, usually located just outside a residence, that acts as a lightning arrestor or generally as a bi-directional overcurrent protector.

³ It would be costly to require NYNEX and other LECs to physically change the demarcation points at all of the existing premises. Furthermore, the difference in demarcation points would not appear to provide the incumbent LEC with any competitive advantage over an alternative service provider. Finally, as noted above, changing the demarcation point for existing MDU wire could lead to re-regulation of wire that is now unregulated.

the demarcation point outside the home in order to obtain easy access for responding to trouble reports. Thus, NYNEX does not believe that changing the demarcation point prospectively for new construction only will create any operational difficulties or burdens for LECs.

In the case of new MDU buildings, including additions, modifications and rearrangements of existing wire, the Commission's current rules provide that the telephone company may establish a standard operating practice of placing the demarcation point at the minimum point of entry (usually the basement of the building).⁴ If the telephone company does not establish such a practice, the owner of a MDU building may determine the location of the demarcation point or points. If there are multiple demarcation points, the demarcation point for any particular customer may not be further than 12 inches inside of the customer's premises.

NYNEX recommends that the telephone service demarcation point for new MDU buildings should be changed to the closest practicable distribution or cross-connect point to the customer. Depending upon the wiring in a building, this point could be in the basement or could be at a cross-connect terminal in a telephone closet on the floor where the customer lives or works. This new rule should only apply on a prospective basis to new MDU buildings. It would bring the demarcation point in MDUs for telephony and cable closer together.⁵

⁴ The minimum point of entry is defined as either the closest practicable point to where the wiring crosses a property line or the closest practicable point to where the wiring enters a MDU building. 47 CFR § 68.3.

⁵ As discussed below, NYNEX is also recommending that the cable demarcation point in MDU buildings be the point at which the lines becomes dedicated to an individual subscriber's use.

B. Cable Inside Wire Rules

Under the Commission's current rules, the demarcation point for single family homes is set at or about 12 inches outside of where the cable wire enters the subscriber's premises. The demarcation point for units in MDU buildings is at or about 12 inches outside of where the cable enters the subscriber's individual dwelling unit.⁶

As discussed above, NYNEX is recommending that the telephone demarcation point for new single family dwellings be located 12 inches outside of the customer's home. If this change is adopted, the cable and telephone demarcation point for single family homes will be the same.

NYNEX also recommends that the demarcation point for MDU buildings be changed and established at the point where the cable wire becomes dedicated to the individual subscriber. The record compiled in the cable home wiring proceeding (MM Docket No 92-260) clearly demonstrated that the current cable demarcation point in MDU buildings impedes competition in the delivery of video services. Indeed, Commissioner Chong, in her statement supporting the Commission's January 26, 1996 Order on Reconsideration in that proceeding, noted that she supported NYNEX's Petition for Reconsideration and wanted to immediately move the demarcation point in MDU buildings to a point where more convenient and cost-effective access is available.

As Commissioner Chong and other parties have noted, the demarcation point established by the current rule is, in many instances, not physically accessible because it is inside of a wall. Even in those cases where the demarcation point is accessible, a

⁶ 47 CFR § 77.5 (mm)(1) and (2).

competing service provider would have to install duplicate subscriber-dedicated wire in order to access the demarcation point. This process is costly and requires construction work in the common areas of the MDU which may be prohibited by the building owner.

NYNEX thus recommends that the Commission establish the demarcation point at the point where the line becomes dedicated to the individual subscriber. This will promote consumer choice and competition by permitting customers to subsequently use that wiring for an alternative video programming service. In addition, if the demarcation point is located at a point where the line becomes dedicated to an individual subscriber, the common MDU wiring of the existing cable service provider will not be disturbed, thereby preventing signal theft and interference with service to other customers. The Commission should therefore modify its cable home wiring rules to change the demarcation point in MDUs.

The foregoing changes to the demarcation points for telephony and cable will bring the demarcation points closer together for both MDU buildings and single family homes. This will facilitate competitive equity for companies, including NYNEX, who will be installing and maintaining both types of services in the near future.

III. IF VIDEO AND TELEPHONE SERVICES ARE PROVIDED OVER THE SAME FACILITY, THE DEMARCATION POINT SHOULD BE THE SAME FOR BOTH SERVICES PROVIDED OVER THAT FACILITY

As the Commission notes in the NPRM, technology will soon be evolving to the point where both video and telephone services can be provided over the same facility by one company. In such cases, it makes logical sense that the demarcation point be the same

for both services. Different demarcation points would confuse customers and cause needless expense for service providers.

Because the technology that will be used to provide video and telephone service is still evolving, we do not believe it to be feasible to determine the exact location of the demarcation point for integrated service facilities at this time. However, in general, the demarcation point in MDUs should be the point at which the line becomes dedicated to an individual subscriber's use. Furthermore, the Commission's rules should apply to all providers of an integrated service. Thus, if a cable company provides both video and telephone service over the same facility, it should be subject to the new rule.

Consistent with this approach, NYNEX also recommends that once telephone and video services begin to be provided over the same facility, the distinctions between simple and complex, and residential and non-residential wire, should be eliminated. While these distinctions may be reasonable in today's environment where cable and telephone services are provided over separate facilities, they do not appear to be necessary to protect consumers or promote competition between service providers in an integrated services environment.

IV. THE COMMISSION SHOULD GIVE CONSUMERS CONTROL OF CABLE AND TELEPHONE INSIDE WIRE UPON INSTALLATION

NYNEX recommends that the Commission adopt rules allowing the subscriber to control cable home wiring immediately upon installation. Consumer control over cable inside wiring will promote competition in the installation and maintenance of cable wiring and in the delivery of broadband service. It will also establish parity between the telephone and cable industries.

Customer choice is the cornerstone of a competitive market, and true competition for cable services cannot be achieved unless customers have the ability to choose freely among the services offered by competing providers. Permitting the customer to own or control cable home wiring upon installation will help to ensure that customers can exercise free choice regarding the provision of cable and video services. The Commission's current rule which provides for customer control only upon termination of service will not fully achieve the Commission's objective of increased competition and efficient deployment of new services.

The Commission clearly has the authority to adopt rules giving consumers control of their inside wire upon installation. The Communications Act gives the Commission broad regulatory authority over "all interstate ... communications by wire or radio," including cable television services.⁷ This is the same authority the Commission relied on to prescribe rules for telephone inside wire and CPE.⁸ In addition, the 1992 Cable Act⁹ affirmatively required the Commission to establish regulations governing rates for inside wire and suggested that the telephone inside wire rules serve as a model for cable home wire rules.¹⁰

Certainly, the 1992 Cable Act does not preclude the Commission from adopting rules giving subscribers control before termination or control of wiring in common areas. Although Section 16(d) of the 1992 Cable Act required the Commission to adopt rules

⁷ See United States v. Southwestern Cable Co., 392 U.S. 157, 167-178 (citing 47 U.S.C. § 152).

⁸ See Second Computer Inquiry, 77 FCC 2d 384, 432 (1980).

⁹ 47 U.S.C. § 521 et seq.

¹⁰ See S. Rep. No. 92, 102nd Cong., 1st Sess. 23 (1991).

regarding the disposition of cable home wiring upon termination of service, it did not prohibit or otherwise limit the Commission's authority to adopt additional rules if in the public interest.¹¹ Moreover, to limit the scope of the Commission's authority under Section 16(d) would defeat the overarching purpose of the 1992 Cable Act -- *i.e.*, to protect consumers and foster competition.

Adoption of cable home wiring rules giving subscribers control of cable home wiring prior to termination of service would also not subject cable service providers to regulation as common carriers. Clearly, such cable home wiring rules cannot be compared to the broad panoply of rules adopted pursuant to the Communications Act of 1934 that apply to common carriers. Moreover, the legislative history of the Cable Act makes it clear that Congress thought that the telephony inside wiring rules were an appropriate paradigm for the regulation of cable home wiring.

Finally, adoption of such rules would not result in an impermissible "taking" of property without just compensation.¹² Requiring cable operators to allow subscribers to control the use of their home wiring upon installation does not involve a physical intrusion or permanent physical occupation of the cable company's real property.¹³ Rather, it merely involves regulation of the rates chargeable from the employment of private property devoted to the public use. Such regulation is constitutionally permissible.¹⁴

¹¹ Implementation of the Cable Television Consumer Protection and Competition Act of 1992 -- Cable Home Wiring, MM Docket No. 92-260, Report and Order (released February 2, 1993) at ¶ 6.

¹² Like telephone companies, cable operators should be required to amortize any part of the cost of existing wiring they can show is undepreciated and unrecovered, and expense the cost of new installations. See Detariffing the Installation and Maintenance of Inside Wire, CC Docket No. 79-105, Second Report and Order at 2-3 (February 24, 1986).

¹³ Cf. Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419, 426 (1982).

¹⁴ See FCC v. Florida Power Corp., 480 U.S. 245, 253 (1987).

V. LEGISLATION MAY BE THE ONLY WAY TO ENSURE CABLE AND TELEPHONE COMPANY ACCESS TO PRIVATE PROPERTY

The Commission seeks comments on the current status of the law regarding access to private property by cable operators and telephone companies. As shown below, the rights of telephone companies and video providers to obtain access to private property are somewhat circumscribed, especially in the area of access to MDU buildings. In the absence of legislation granting such access, alternative telephone and video service providers may encounter obstacles in their attempts to provide service in MDU buildings.

A. Telephone Company Access Rights

In the NPRM, the Commission states that telephone companies have traditionally gained access to private property through private easements and contracts with property owners. This assumption is not entirely accurate insofar as MDU and office buildings are concerned.

While state laws often give telephone companies, such as NYNEX, the authority to use public rights of way, these laws either do not provide access to private property or provide such access in very limited circumstances.¹⁵ In New York and some New England states (excluding Massachusetts), the NYNEX Telephone Companies possess the power of eminent domain over private property.¹⁶ However, the use of eminent domain in a MDU building or commercial office building is impractical due to statutory time periods, costs,

¹⁵ Me. Rev. Stat. Ann. title 35-A, § 2301; Mass. Ann. Laws ch. 166, § 21; N.H. Rev. Stat. Ann. § 231:160; N.Y. Transp. Corp. § 27; R.I. Gen Laws § 39-1-30.1; 1917 R.I. Acts & Resolves January Session, §§ 1-10; Vt. Stat. Ann. title 30, § 2502.

¹⁶ N.Y. Transp. Corp. § 27; R.I. Gen Laws § 39-1-31.

and survey requirements.¹⁷ Absent an eminent domain proceeding, telephone companies may not be able to force a landlord to give them access for a telephone equipment room or for conduit through the building, or power for their equipment. On the other hand, the NYNEX Telephone Companies' tariffs provide that their obligation to provide service to customers is contingent upon NYNEX's ability to secure, without expense, suitable access and power.¹⁸

The access rights enjoyed by telephone companies were the result of their former monopoly position, and the fact that landlords had to grant them access in order to provide essential telephone service to tenants. The failure of a landlord to grant access to a telephone company would have resulted in the loss of tenants and rental income, so from a practical standpoint landlords had no choice. As a result, there is no legislation or rule requiring landlords to grant access to telephone companies, because none was ever needed.

For similar reasons, telephone companies generally do not obtain formal easement rights to obtain access to multi-tenanted buildings. Easements are only obtained when it is necessary to obtain access to or through a building in order to access and serve *other* buildings (for example, where access to a city block is obtained through one building). However, that is the exception rather than the rule. A more common occurrence, at least in New York City, is for the telephone companies to obtain a simple written permission or "right of way" to enter the building in question.

¹⁷ See N.Y. Em. Dom. Proc. § 101 et seq. The power of eminent domain is seldom used by the NYNEX Telephone Companies.

¹⁸ For New York State, see PSC Tariff 900, Section 1, 17th Revised Page 6; Section 14, 1st Revised Page 29; Section 1, 1st Revised Page 89; and Section 1, 1st Revised Page 97.

B. Video Access Rights

NYNEX's rights to access MDU buildings as a video services provider differ depending upon how the video will be delivered. If video programming were delivered using a common carrier service, NYNEX would arguably have the same access rights as those governing any other common carrier service provided by the telephone companies (including eminent domain). If NYNEX offered video services as a cable operator, its rights would be the same as those of cable companies described below. Wireless video service providers usually gain access to MDUs through negotiations with individual building owners.¹⁹

C. Cable TV Company Access Rights

Unlike the telephone companies, in many states cable TV companies have the statutory right to access multi-tenanted buildings. These statutes prohibit the landlord from interfering with the installation of cable TV facilities in their buildings, provided the landlords receive reasonable compensation.²⁰ A recent court challenge held that the New York statute requires landlords to allow a franchised cable company access to the building, even if the building is already served by a non-franchised cable company.²¹

¹⁹ NYNEX understands that wireless cable providers have succeeded in obtaining access rights by offering landlords revenue sharing, bulk service discounts or other compensation.

²⁰ Me. Rev. Stat. Ann. title 14, § 6041; Mass. Gen. L. ch. 166A, § 22; N.Y. Exec. § 828; R.I. Gen. Laws § 39-19-10.

²¹ Matter of 86th Street Tenants Corp., N.Y. Sup. Ct., Index No. 105358-93 (Ciparick, J.), New York Law Journal (January 7, 1994) p.1, aff'd, 627 N.Y.S.2d 693 (App. Div. 1995).

D. Alternate Telephone Company Access Rights

Alternate telephone companies may be able to gain access to MDU buildings for installing their own facilities only by making payments to landlords in the form of cash, revenue sharing and/or enhanced services. As a result, alternate telephone companies perceive the incumbent LECs as having a practical advantage in multi-tenanted buildings by virtue of their established telephone equipment rooms and conduits, and because landlords are often reluctant to relinquish valuable space in their buildings for more than one provider of telephone service. In very limited circumstances, the NYNEX Telephone Companies may be able to share their easement or access rights in multi-tenanted buildings with other service providers.²² This, however, depends upon the language of the easement that NYNEX may have obtained and would probably not apply to the rights NYNEX has for much of its access through multi-tenanted buildings.

E. Practical Consequences

As the above discussion indicates, most of the NYNEX Telephone Companies' telephone equipment rooms, risers and wiring serving customer premises in both commercial and residential multi-tenanted buildings are located in buildings either by the tacit or express consent of the landlords. The contractual rights obtained by the NYNEX Telephone Companies to provide service to buildings are limited at best. There are no laws assuring the NYNEX Telephone Companies of the right of access to buildings and eminent domain proceedings are an impractical remedy to the access problem.

²² See Hoffman v. Capitol Cablevision System, Inc., 52 A.D.2d 313, 383 N.Y.S. 2d 674 (3rd Dept. 1976).

As telephone competition increases, telephone companies can expect to encounter increasing resistance from landlords who may seek to control the number of telecommunications providers in their building as well as sharing in service revenue. Landlords in some jurisdictions, such as New York City, redistribute electricity to tenants at a profit, and they can do the same with telecommunications services. Landlords may seek bids from competing service providers for the right of access to their buildings, thereby increasing the cost to the telephone companies of providing service to those buildings.

Legislation may be the only way to ensure that competing telephone and video service providers have comparable access to property. However, the prospect of a law or regulation forcing landlords to allow potentially numerous telecommunications providers access to their buildings may be viewed negatively by the real estate industry. Landlords are likely to try to limit the expansion of telephone closets and equipment rooms, since that space may otherwise be rentable. Landlords are also likely to seek to maintain control over the number and identity of service personnel in their building and the use of limited shaft and riser space. If laws are adopted that require landlords to allow telecommunications providers access to their buildings, courts may deem such a requirement to be a taking, resulting in the payment of just compensation to the landlords.²³ Due to conflicting interests among the telephone companies, cable TV companies, alternate

²³ See Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419 (1982). In Loretto, the Supreme Court stated that “a permanent physical occupation authorized by government is a taking without regard to the public interests that it may serve”. The Loretto case involved a taking by a franchised cable company of approximately 1½ cubic feet of equipment space on the roof of the building.

telecommunications providers and the real estate industry, support for a unified approach to granting access to private property may be difficult to achieve.

Nevertheless, the Commission should, to the extent possible, adopt rules that promote open access for alternative telephone and video service providers on a going forward basis. For example, the Commission should require a LEC to afford access to competing local exchange carriers where the LEC's contractual or easement agreements give the LEC the right to do so. The Commission should also bar LECs and cable service providers from entering into long-term or exclusive contracts with the owners of MDU buildings to be the exclusive provider of services in those buildings. Similarly, the Commission should exercise its authority as outlined in Section 253 of the Telecommunications Act of 1996 to overturn any existing exclusive government grant of access to public rights of way. Such rules would go a long way toward promoting competition by ensuring that consumers have the ability to obtain access to competing telephone and video service providers.

VI. THE INDUSTRY SHOULD BE ALLOWED TO DEVELOP TECHNICAL STANDARDS FOR BROADBAND SERVICES AND CABLE CPE

The Commission seeks comment as to whether it should prescribe technical standards for broadband services and cable CPE. The Commission also asks whether revisions to its cable inside wire rules may increase the risk of signal leakage or decrease signal quality.²⁴

²⁴ Cable signal leakage has the potential to cause interference to licensed over-the-air services, including aeronautical services. See Report and Order, FCC 93-73, ¶ 22 (February 2, 1993).

The Commission should not prescribe technical standards, similar to the Part 68 rules that exist for telephone service, for broadband services. Under the current Part 68 rules, it is cumbersome to introduce new technology and CPE since rule changes or waivers must first be obtained.

NYNEX instead recommends that the Commission utilize industry forums and standards bodies to develop a set of minimum technical standards and guidelines for cable CPE, such as jacks, plugs and set top boxes, and for integrated services provided over broadband facilities. Once these standards have been developed and adopted by the Commission, any issues relating to the compatibility of new technology and CPE with these technical standards should be referred to the appropriate industry standards bodies for final recommendation and implementation.

Thus, for example, the Commission has established signal leakage limits for cable services. The Commission should require manufacturers and installers of cable wiring, jacks and plugs to comply with these limits. The industry could develop a self-sealing jack which would close when a cable was removed, eliminating signal leakage and meeting the limits established by the Commission. The Commission should consider using existing industry guidelines and procedures for notification and publication of technical and operational standards.

The industry forums could also develop recommended guidelines on operational issues relating to technical issues, such as signal leakage, in a multi-vendor environment. Cable operators currently are responsible for preventing signal leakage. In its February 2, 1993 Report and Order in the cable home wiring proceeding, the Commission ruled that a

cable operator who installed cable home wiring should not be responsible for signal leakage if the cable operator is no longer providing cable service. The industry may be able to reach agreement that if a new cable service provider utilizes existing cable home wiring, that provider should be required to cap the existing wiring at the demarcation point when the new service is hooked up. Physically capping the wire would appear to be a relatively simple and inexpensive procedure. This is the type of issue that should ultimately be referred to the appropriate industry standards bodies for recommendation and implementation.

NYNEX believes that the issue of signal leakage should not be affected by allowing customers to gain control of cable inside wire upon installation of service rather than only at termination, as the current rules provide. The Commission has already determined that allowing customers to gain control over their cable wiring upon termination of service will not increase the risk of signal leakage. There is no apparent reason why the risk of signal leakage should be greater if customers gain control over their wiring upon installation, especially if a new service provider that utilizes existing home wiring were required to cap the existing wiring at the demarcation point when the new service is hooked up, or if self-sealing jacks were used.

The Commission should also not extend its cable signal quality standards to companies that provide video and telephone services over the same facility. NYNEX agrees with the Commission that in a competitive environment, quality standards are unnecessary because signal quality will be one of the factors that a service provider will use to differentiate its service from its competitors in competing for business.

VII. THE COMMISSION SHOULD DEREGULATE CABLE CPE

The Commission seeks comment on whether it should establish a common regulatory scheme to govern both cable and telephone network CPE.

Telephone-related CPE constitutes all telephone equipment located on the customer's side of the demarcation point, including telephone handsets. In its Computer II decision,²⁵ the Commission concluded that Title II regulation of CPE was no longer warranted. The Commission's decision has led to the creation of a vigorous, competitive telephone equipment market that has produced cost savings for consumers.

The Commission's goal in this proceeding should be to give subscribers the choice of purchasing, installing or maintaining CPE themselves, or having a vendor other than the cable operator do so. This should facilitate the development of competition amongst equipment vendors and ultimately result in cost savings for the consumer, as has happened in the telephone context.

The Commission also expresses concerns that deregulation could lead to signal theft. However, problems or concerns regarding signal theft exist whether or not subscribers control their cable wiring or CPE. These can best be addressed in other ways (e.g., increasing penalties for theft of service).

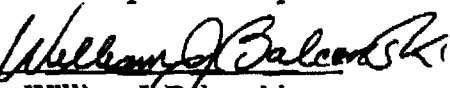
²⁵ 77 FCC 2d 386 (1980).

VIII. CONCLUSION

The Commission should revise its inside wire rules in accordance with the comments set forth herein.

Respectfully submitted,

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